

ZONING BYLAWS

TOWN OF

WALPOLE

MASSACHUSETTS

SECTION 1

GENERAL

1-A TITLE AND AUTHORITY

This by-law shall be known and may be cited as the "Zoning By-Law ", and is adopted by virtue of and pursuant to the provisions of General Laws, Chapter 40-A, as amended by Chapter 808 of the Acts of 1975 as amended.

1-B PURPOSES

The purposes of this by-law include, but are not limited to the following: to lessen congestion in the streets, to conserve health; to secure safety from fire, flood, panic and other dangers, to provide adequate light and air; to prevent overcrowding of land; to avoid undue concentration of population; to encourage housing for persons of all income levels; to facilitate the adequate provision of transportation, water, water supply, drainage, sewerage, schools, parks, open space, and other public requirements; to conserve the value of land and buildings, including the conservation of natural resources and prevention of blight and pollution of the environment; to encourage the most appropriate use of land throughout the Town, including consideration of the recommendations of the plan, if any, adopted by the Planning Board and the comprehensive plan, if any, of the regional planning agency; and to preserve and increase amenities by the promulgation of regulations to fulfill these objectives under the provisions of General Laws, Chapter 40-A.

Regulations adopted pursuant to these purposes may include but are not limited to, restricting, prohibiting or regulating the use, construction, alteration, height, area and location of buildings and structures and the use of premises in the Town of Walpole.

1-C DEFINITIONS

In this by-law, the following terms, unless a contrary meaning is required by the context or is specifically prescribed, shall have the following meanings.

ABUTTING -

Touching at some point or line.

ACCESSORY USE -

A use or structure of a nature customarily incidental and subordinate to those of the principal use or structure.

ADULT BOOKSTORE OR SRUCTURE -

An establishment having as a substantial or significant portion of its stock in trade, books, magazines, and/or other matter which are distinguished or characterized by their emphasis depicting, describing or relating to sexual conduct or sexual excitement as these terms are defined in M.G.L. Chapter 272, Section 31.

ADULT MOTION PICTURE THEATRE -

An enclosed building used for presenting material distinguished by an emphasis on matter depicting, describing, or relating to sexual conduct or sexual excitement as these terms are defined in M.G.L. Chapter 272, Section 31.

ADULT PARAPHERNALIA STORE -

An establishment having as a substantial or significant portion of its stock in devices, objects, tools, or toys which are distinguished or characterized by their association with sexual activity, including sexual conduct or sexual excitement as these terms are defined in M.G.L. Chapter 272, Section 31.

ESTABLISHMENTS WHICH DISPLAY LIVE NUDITY -

An establishment which includes the display of nudity, as that term is defined in M.G.L. Chapter 272, Section 31.

ADULT VIDEO STORE -

An establishment having a substantial or significant portion of its stock in trade, videos, movies, or other film material which are distinguished or characterized by their emphasis depicting, describing, or relating to sexual conduct or sexual excitement as defined in M.G.L. Chapter 272, Section 31.

ANIMAL CLINIC OR ANIMAL HOSPITAL-

A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the clinic or hospital use, or act or do anything in relation thereto.

AUTO BODY REPAIR -

Establishments for metal crafting, auto body repair, auto body painting, paint spraying or interior customizing cars, trucks, and all types of motorized vehicles.

BUILDING -

Any structure having a roof for the shelter, housing, or enclosure of persons, animals, chattels, or property of any kind.

BUILDING HEIGHT -

The vertical distance from the mean finished grade of the ground at the building line on the street side of the proposed building to the mid point of the roof or parapet. Height limitations shall apply to any extensions of the structure integral to the habitable space, regardless of the square footage of the extension. Height limitations shall not apply to antennas, chimneys, spires, or extensions of the structure which are strictly ornamental in nature.

CHARITABLE and PHILANTHROPIC INSTITUTIONS

Uses consistent with section 40A Section 3 MGL, such as a private facility accredited and recognized by the state and federal government as charitable non-profit organizations and providing medical, social, residential or educational services.

COMMERCIAL OPERATION -

Earth removal projects where the prime use of the lot or any part of the lot is for the removal of earth material.

CONSERVATION -

Maintenance of land or water areas predominately in their natural, scenic or open condition, in agricultural or forest use, in use for environmental education purposes, or in public recreational use, provided that such activities are not detrimental to the protection of native plant and animal life or to drainage, flood control, water or soil conservation, erosion control, or water resource protection.

CONSTRUCTED -

"Built", "Erected", "Reconstruction" "Altered", "Enlarged", "Moved", and "Placed".

DWELLING -

A building, or any part thereof, containing accommodations for permanent human occupancy including one and two family houses, apartments, and boarding or lodging houses, but not including transient accommodations such as in hotels or motels.

DWELLING UNIT -

One or more rooms providing complete living facilities for one family, including equipment for cooking or provisions for the same, and including room or rooms for living, sleeping and eating.

DZBL -

District Zoning Boundary Line.

EARTH -

The term earth shall include earth and earth materials including sod, soil, topsoil, humus, loam, clay, sand, gravel, stone and quarry stone which may be taken from or filled upon land.

EDUCATIONAL USE -

Uses consistent with Section 40A Section 3 MGL, such as uses of land, buildings or structures for providing learning in a general range of subjects on land owned or leased by the Commonwealth or any of its agencies, subdivisions or bodies politic, and including the use of land, buildings, or structures for providing facilities for research, public education and public display which are owned and operated by the Commonwealth or any of its agencies, subdivisions or bodies politic. Further, educational uses shall be construed to include any use of land, buildings or structures for providing learning in a general range of subjects on privately owned land by any educational entity accredited by the appropriate regulating authority.

EXCAVATE -

To dig into and remove earth.

FAMILY -

A single individual doing his own cooking and living upon the premises as a separate housekeeping unit, or a collective body of persons doing their own cooking and living together upon the premises as a separate housekeeping unit, all related within the second degree of kinship; or not more than three unrelated persons.

FILL -

Adding of earth.

GRADING -

Alteration of land surfaces by excavation or filling.

HORIZONTAL AREA -

A definitely bounded piece of ground contained within surveyed and/or computed lines, measured parallel to the horizon and conforming to the ethical, procedural, and technical standards for the practice of land surveying in the Commonwealth of Massachusetts.

HOTEL -

A building (other than a dormitory) containing four or more sleeping units without kitchens; primarily the temporary abode of persons who have permanent residence elsewhere.

KENNEL, COMMERCIAL-

A pack or collection of more than five (5) dogs, cats, or other domestic animals on a single premises maintained for sale, commercial breeding, boarding, grooming, training, or of for any other commercial purposes, and including any shop where dogs are for sale. However, kennels located on parcels of five (5) acres or more and located in the Rural (R) zone and which include the breeding and raising of animals are considered an agricultural use as per Section 3-B-2 (b) of the Zoning Bylaw and are protected by the agricultural exemption of M.G.L. c. 40A §3.

LOT -

A single parcel of land held in identical ownership throughout and defined by metes, bounds, or boundary lines in a recorded deed on a recorded plan.

MULTI-FAMILY HOUSING -

Four (4) or more dwelling units in one building, or in multiple buildings, located on one lot.

NONCONFORMING USE -

A use lawfully existing at the time this by-law or any amendment thereto takes effect which does not conform to the Use Regulations thereof, including an existing use permissible on special authorization of the Board of Appeals but which has not been so authorized.

PARK -

A tract of land kept in its natural state, characterized by gardens, woods, pastures, lakes, walks, drives, playgrounds and benches set aside for public and recreational use or maintained for the protection of wildlife.

PREMISES -

A lot, together with all buildings, structures and uses thereon.

PRINCIPAL STRUCTURE -

The structure in which the primary use of the lot is conducted, including projections of the structure.

PRINCIPAL USE -

The primary use to which the premises are devoted, and the main purpose for which the premises exist.

PRIVATE CLUB, ASSOCIATION or LODGE -

A private club or organization primarily for the benefit of its members.

PRIVATE GUEST HOUSE -

A detached building incidental to and located on the same lot with a dwelling for the occasional or temporary accommodation (for which no fee is charged) of friends, relatives, or visitors and which does not contain a kitchen or other permanently installed facilities for cooking.

PRIVATE or PROFIT SCHOOL -

A school operated as a business, generally providing instruction in a limited range of subjects such as, but not limited to, driving and flight training schools, computer training or repair schools, auto repair schools, and all similar training activities established as business enterprises.

PROFESSIONAL OFFICE -

A building or group of buildings used for the offices and facilities accessory to the practice of licensed medical practitioners, architects, engineers or other members of recognized profession. For the purposes of this definition: (a) "licensed medical practitioners" shall include physicians, dentists, optometrists, ophthalmologists, Christian Science practitioners, chiropractors, and person engaged in all fields related generally to medicine, but not including veterinarians; (b) "other members of a recognized profession" shall not include persons whose use of such building or group of buildings involves manufacturing, fabrication, production, processing, assembling, cleaning, testing, repair or storage of materials and products which are physically located on the premises; and (c) "professional office" shall not include a veterinary hospital or in-patient health care facilities.

RECREATION -

Active or passive outdoor or indoor leisure and sports activities, including but not limited to golf, boating, fishing, swimming, tennis and other racquet sports, baseball, basketball, football, soccer, bicycling, running, walking, hiking, cross-country skiing, picnicking and nature study, but excluding the operation of motorized vehicles (other than golf carts) such as motorcycles, dirt bikes, snowmobiles, dune buggies and motor boats.

RECORDED -

Recorded or registered in the Norfolk County Registry of Deeds, Land Court or a recorded title to a parcel of land disclosed by any or all pertinent public records.

REMOVAL -

The moving of earth from any lot or tract of land.

RESIDENTIAL CARE CONTINUUM -

A campus type development of facilities to provide a continuum of residential alternatives for the aged, chronically ill, or disabled: with the particular goal of assisting them better to cope with their particular limitations and to lead a productive existence, through the provision of appropriate care, rehabilitation, psychological counseling, and educational programs. Such a development may include any combination of the following, but must include a skilled nursing facility and either an assisted-living facility or an independent living facility as defined in subparagraphs (a), (b) and (c):

- (a) a skilled nursing facility including ancillary support and rehabilitation services, including but not limited to: an adult day care or respite facility to provide short-term custodial care to individuals with special needs; food service; social, psychological and educational programs; twenty-four hour supervision; and nursing care as appropriate, all with the purpose of assisting the individual to continue to develop and to overcome the limitations imposed by his or her condition, and providing the individual's family or other care-giver a respite from the provisions of such care;
- (b) a congregate housing or assisted-living facility providing a sheltered living environment for the aged, chronically ill; or disabled, including such services as: housekeeping; cooking and common dining; social, psychological, and educational programs; assistance with personal needs; and crisis intervention, all with the purpose of assisting each resident to continue to develop and to lead a productive and fulfilling life;
- (c) independent living facilities providing private living and dining accommodations to persons fifty-five (55) years of age or older, also including common areas and the provision of social, psychological, and educational program, and crisis intervention as needed, all with the purpose of providing an environment in which older persons can continue to derive the personal and psychological benefits of independent living while also enjoying the substantial social and educational benefits of community living.

- (d) home health care facilities serving as a base for the provision of medical, nutritional, social, psychological, and educational services for the aged, chronically ill, or disabled.
- (e) multi-purpose facilities for resident and non-resident senior citizens, which may include social, educational wellness, counseling, recreational, outreach, and other activities;
- (f) facilities for the provision of ancillary services to residents of the development, which may include but are not limited to a beauty parlor/barber shop center, and other such services, provided that such services shall be available only to residents, their guests, and employees, and not to members of the general public.

RETAIL SALES AND SERVICES -

An individual store or group of stores, on a lot or lots under common ownership or relying upon common parking areas whose principal use is the sale of goods at retail.

STREET -

A public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or a way shown on a plan therefore approved and endorsed in accordance with the subdivision control law, or a way in existence when the subdivision control law became effective in the city or town in which the land lies, having in the opinion of the Building Inspector or the Board of Appeals, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon.

WIRELESS COMMUNICATIONS FACILITY -

Shall mean a wireless communication monopole, including antennas and accessory structures, if any, which facilitates the provision of wireless communications services.

WIRELESS COMMUNICATIONS SERVICES -

Shall mean the provision of the following types of services: cellular telephone service, personal communications and enhanced specialized mobile radio service.

1-D BASIC REQUIREMENTS

In accordance with Mass General Laws, Chapter 40-A, and notwithstanding any provisions to the contrary, this by-law shall not prohibit or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the Commonwealth, or any of its agencies, subdivisions, or bodies politic, or by a religious sect or denomination or by a non-profit educational corporation.